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Nevada State Bar no. 5970

UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEVADA

* * * * *

In re:

DAVID O'LEARY &
NITA O'LEARY

Debtor(s).

) BANKRUPTCY NUMBER:
) BK-S-09-16427-LBR
) CHAPTER 13
)

) Date: OST PENDING
) Time: OST PENDING
)

**MOTION TO REINSTATE AUTOMATIC STAY RE: SECURED CREDITOR
DEUTSCHE BANK TO PROHIBIT SALE AND REINSTATE THE AUTOMATIC STAY**

Comes now, the Debtors, above-named, by and through their attorney, RANDOLPH H. GOLDBERG, ESQ., moves this Court for an order approving the Motion to Reinstate the Automatic Stay re: Secured Creditor DEUTSCHE BANK to prohibit sale, as set forth in the points and authorities attached hereto.

DATED this ____ day of _____, 2010.

LAW OFFICES OF
RANDOLPH H. GOLDBERG

By _/s/Randolph H. Goldberg/s/_
RANDOLPH H. GOLDBERG, ESQ.
4000 S. Eastern Avenue, Suite 200
Las Vegas, Nevada 89119
Attorney for Debtor

POINTS AND AUTHORITIES

11 U.S.C. Sec. 362(a) states as follows:

(a) Except as provided in subsection (b) of this section, a petition filed under section 301, 302, or 303, of this title, or an application filed under section 5(a)(3) of the Securities Investor Protection Act of 1970 (15 U.S.C. 78 eee(a)(3)), operates as a stay, applicable to all entities, of -

(1) the commencement or continuation, including the issuance or employment of process, of judicial , administrative, or other action or proceeding against the debtor that was or could have been commenced before the commencement of the case under this title, or to recover a claim against the debtor that arose before the commencement of the case under this title;....

STATEMENT OF FACTS

A Motion for Relief from Automatic Stay was filed by Deutsche bank and set for hearing on January 15, 2010. The debtor has been making the house payments since the bankruptcy has been filed Prior to the hearing Ms. O'Leary gave copies of the cashiers checks to Mr. Goldberg's office and those were in turn faxed to Gregory Wilde's office. The debtors through their attorney have been working on a resolution and putting the stay back in place. To this date there is no resolution. Mr. Wilde has postponed the sale so that the problem can be resolved.

An entered order lifting the automatic stay was signed by the court on February 22, 2010. This order should have never been entered. The debtor is current on all post petition payments with regards to the house and prays the court reinstate the automatic stay in this case.

1
2 WHEREFORE debtors' respectfully request that any pending sale be canceled.
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4 THAT the stay provided under Chapter 13 of the Bankruptcy Code be reinstated
5 and
6 the Order Granting the Motion for Relief from Automatic Stay be vacated.
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8 DATED this _____ day of _____, 2010.
9

10 Respectfully submitted,
11

12 By_/s/Randolph Goldberg/s/_____
13 RANDOLPH H. GOLDBERG, ESQ.
14 4000 S. Eastern, Suite 200
15 Las Vegas, Nevada 89119
16 Attorney for Debtor
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